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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BRAYDEN STARK, JUDD OOSTYEN, ISAAC
BELENKIY, VALERIE BURTON, LAURA
GOODFIELD, and DENOVIA MACK,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

PATREON, INC.,

Defendant.

Case No. 3:22-cv-03131-JCS

**DECLARATION OF SIMON S. GRILLE IN
SUPPORT OF PLAINTIFFS' MOTION TO
SUPPLEMENT THE SUMMARY
JUDGMENT RECORD**

Judge: Hon. Joseph C. Spero

Date: March 29, 2024

Time: 9:30 a.m.

REDACTED

EXHIBITS A-E FILED UNDER SEAL

**DECLARATION OF SIMON S. GRILLE IN SUPPORT OF PLAINTIFFS' MOTION TO
SUPPLEMENT SUMMARY JUDGMENT RECORD
CASE NO. 3:22-CV-03131-JCS**

1 I, Simon S. Grille, hereby declare as follows:

2 1. I am an attorney at the law firm of Girard Sharp LLP. I submit this declaration in
3 support of Plaintiffs' Motion to Supplement the Summary Judgment Record. I have personal
4 knowledge of the information contained herein, and if called as a witness, could and would testify
5 competently thereto.

6 2. Since December 21, 2023, when Plaintiffs filed their opposition (Dkt. 99) to Patreon's
7 motion for summary judgment, Plaintiffs have elicited additional facts and evidence relevant to
8 Patreon's argument that the Video Privacy Protection Act, 18 U.S.C. § 2710 ("VPPA") violates the
9 First Amendment. Patreon argues in part that the VPPA's consent requirements are unduly
10 burdensome and that Patreon could not have realistically complied with them. *E.g.*, Dkt. 76 at 13; Dkt.
11 117 at 4, 26-27.

12 3. Plaintiffs learned the additional facts at the depositions of Patreon's former senior
13 engineering manager Jared Smith on January 12, 2024, and of Patreon's former data and marketing
14 operations manager Jason Bilog on February 2, 2024.

15 4. After learning that Patreon's counsel represented both Mr. Smith and Mr. Bilog,
16 Plaintiffs on November 10, 2023 issued subpoenas for their testimony.

17 5. On November 30, 2023, Patreon stated that Mr. Smith could be available for deposition
18 January 12 or 26, 2024, and that Mr. Bilog could be available January 31 or February 3, 2024. Plaintiffs
19 scheduled their depositions as soon as practicable given the availability of counsel and these witnesses.

20 6. While documents introduced in those depositions had been produced earlier, the
21 relevance of those documents became apparent only after the depositions were taken. In addition, the
22 meaning and importance of terminology used in those documents were unclear to Plaintiffs until after
23 the witnesses' testimony describing the terminology.

24 7. Plaintiffs are seeking to supplement the record, as applicable to Patreon's pending
25 summary judgment motion, promptly following the conclusion of these two depositions and prior to the
26 July 10, 2024 close of discovery. Dkt. 65.

1 8. Attached hereto as **Exhibit A** is a true and correct copy of excerpts from the Smith
2 deposition.

3 9. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the Bilog
4 deposition.

5 10. Attached hereto as **Exhibit C** is a true and correct copy of a document produced by
6 Patreon in this litigation with the beginning production number PATREON_005600.

7 11. Attached hereto as **Exhibit D** is a true and correct copy of a document produced by
8 Patreon in this litigation with the beginning production number PATREON_005931.

9 12. Attached hereto as **Exhibit E** is a true and correct copy of a document produced by
10 Patreon in this litigation with the beginning production number PATREON_005845.

11 13. Attached hereto as **Exhibit F** is a true and correct copy of an email from Fred Norton,
12 counsel for Patreon. Mr. Norton asked that we include this email with our motion.

13 * * *

14 I declare under penalty of perjury under the laws of the United States that the foregoing is true
15 and correct. Executed this 23rd day of February, 2024, in San Francisco, California.

16
17 /s/ Simon S. Grille

18 Simon S. Grille
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